

R. D. Wright of Laredo, Webb County.

To be District Judge of the 111th Judicial District to succeed R. D. Wright, appointed District Judge of the 49th Judicial District:

James M. Williamson of Laredo, Webb County.

To be District Judge of the Criminal District Court, Place 1, Harris County, to succeed Honorable Whit Boyd, deceased.

Frank Williford, Jr., of Houston, Harris County.

To be Branch Pilots for Sabine Bar, Pass and Tributaries for two year terms expiring September 3, 1943:

J. M. Cox of Jefferson County;

F. D. French of Jefferson County;

S. W. Levingston, Jr., of Jefferson County;

Arne Pedersen of Jefferson County;

G. Rodney Robinson of Jefferson County.

To be Branch Pilots for Sabine Bar, Pass and Tributaries for two year terms expiring August 11, 1943:

G. H. McFarland of Jefferson County;

Christian F. Petersen of Jefferson County;

V. R. Wesbrooks of Jefferson County.

Respectfully submitted,  
COKE R. STEVENSON,  
Governor of Texas.

The messages were referred to the Committee on Nominations of the Governor.

(President Pro Tempore Beck in the Chair.)

#### Adjournment

Senator Moffett moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Senator Metcalfe moved that the Senate recess to 3:00 o'clock p. m. today.

The motion to adjourn prevailed; and the Senate, accordingly, at 12:10 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

#### Record of Votes

Senators Graves, Stone and Aikin asked to be recorded as voting "nay" on the motion to adjourn.

### THIRD DAY

(Thursday, September 11, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Beck.

The roll was called, and the following Senators were present:

Aikin	Mauritz
Beck	Metcalfe
Brownlee	Moffett
Chadick	Moore
Cotten	Ramsey
Fain	Shivers
Formby	Smith
Graves	Stone
Hill	Sulak
Isbell	Van Zandt
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York
Martin	

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### Leaves of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Aikin.

Senator Hazlewood was granted leave of absence for today on account of illness, on motion of Senator Aikin.

#### Message from the House

The Assistant Reading Clerk of the House was recognized by the President Pro Tempore to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
September 11, 1941.

Hon E. Harold Beck, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 3, A bill to be entitled "An Act validating elections heretofore held in any independent school district in this State, at which a maintenance tax for the amount and pur-

poses stated was authorized by the qualified voters voting upon the proposed proposition; validating all acts and proceedings of the board of trustees, voters and election officials in connection with any such election; authorizing all such school districts where the vote has heretofore been in favor of levying such maintenance tax, to levy, assess and collect taxes at the rate specified herein; and declaring an emergency."

H. B. No. 7, A bill to be entitled "An Act providing for a more adequate and equitable salary for constable and justice of peace in all counties in this State having a population of not less than twenty-five thousand five hundred (25,500) and not more than twenty-six thousand two hundred (26,200), and containing a city having a population of not less than thirteen thousand three hundred ninety-five (13,395) and not more than fourteen thousand five hundred (14,500), according to the last preceding Federal Census, in which is located a military camp; providing manner in which same shall be paid; and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### Bill Signed

The President Pro Tempore signed in the presence of the Senate, after its caption had been read, the following enrolled bill:

H. B. No. 1,  
"An Act appropriating the sum of One Hundred and Fifty Thousand (\$150,000) Dollars, or so much thereof as may be necessary, payable out of the General Revenue Fund and not otherwise appropriated, to pay the mileage of members, their per diem and contingent expenses, and to pay the salaries and per diem of officers and employees of the First Called Session of the Forty-seventh Legislature of the State of Texas, and to pay any unpaid accounts incurred by the Regular Session of the Forty-seventh Legislature; appropriating the sum of Seven Thousand, Five Hundred (\$7,500.00) or so much thereof as may be necessary, to the Executive Department as an addition to item 14 of the appropriation to the Executive Department by S. B. No. 423. Acts of the Regular Session of the Forty-seventh Legislature; and declaring an emergency."

#### Senate Bill 2 on Second Reading

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 2, A bill to be entitled "An Act amending Chapter 13, Acts Third Called Session of the Forty-second Legislature, as amended; declaring the policy of the State with reference to building, maintaining and financing State designated roads; defining certain terms used throughout the Act; creating the Board of County and District Road Indebtedness, and prescribing the powers, duties and obligations of said Board; etc.; and declaring an emergency."

The bill was read second time.

Pending consideration of the bill on its passage to engrossment, Senator Isbell occupied the Chair temporarily.

(President Pro Tempore Beck in the Chair.)

Senator Shivers offered the following amendment to the bill:

(1)

Amend S. B. No. 2, by adding a new paragraph to Section "J" on page 15 to read as follows:

"In the event any county, road district or defined road district has since September 1, 1941, made any payment on eligible bonds, warrants or other evidence of eligible indebtedness as defined under the terms of this Act, then such county, road district or defined road district shall be reimbursed by the Board of County and District Road Indebtedness in the amount of the payment so made on such eligible obligations."

SHIVERS,  
STONE,  
METCALFE.

The amendment was adopted.

Senator Shivers offered the following amendment to the bill:

(2)

Amend S. B. No. 2 by adding a new paragraph immediately after line 32, page 7, of the mimeographed copy of the bill, said paragraph to read as follows:

"In addition to and regardless of the other provisions of this Act, all bonds, warrants or other evidences of indebtedness voted, or issued without being voted by a county or defined road district prior to January 2, 1939,

insofar as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are now a part of the designated System of State Highways or which have since, or which may hereafter become a part of the designated System of State Highways shall be eligible to participate in the distribution of the monies coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State Highway System; and where such bonds or warrants were voted prior to January 2, 1939, and prior to the designation of the road as a state highway and which have not yet been issued or expended, the county or defined road district may issue such bonds or warrants and place the proceeds in escrow with the State Highway Commission for the construction of such road under plans, contract, specifications and supervision of the State Highway Department and when so expended the bonds shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds had been issued and expended prior to January 2, 1939. Provided, further, that all such bonds or warrants to be hereafter sold by a county or defined road district which will be eligible for participation in the County and Road District Highway Fund under the provisions of the Section shall be sold subject to the approval of the Board of County and District Road Indebtedness."

Question—Shall the amendment be adopted?

#### Executive Session

On motion of Senator Martin and by unanimous consent, the Senate, at 11:30 o'clock a. m., went into executive session to consider nominations of the Governor.

The President Pro Tempore ordered the floor and galleries cleared and directed all doors leading from the Senate Chamber to be kept closed during the executive session.

#### After Executive Session

At the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk that the

Senate had adopted the following report:

Committee Room,  
September 10, 1941.  
Austin, Texas,

Hon. E. Harold Beck, President of the Senate pro tempore.

Sir: We, your Committee on Nominations of the Governor, to whom was referred the following nominations:

To be a Member of the Board of Regents of the Texas College of Arts and Industries at Kingsville for six year term expiring August 31, 1947:

Morris Roberts of Victoria, Victoria County.

Have had the same under consideration, and do recommend that he be in all things confirmed.

MARTIN, Chairman.

The President Pro Tempore called the Senate to order as in legislative session at 11:40 o'clock a. m.

(Senator Stone in the Chair.)

#### Senate Bill 2 on Passage to Engrossment

The Senate resumed consideration of S. B. No. 2, known as the road bond servicing bill, on its passage to engrossment, with amendment (2) by Senator Shivers pending.

(President Pro Tempore in the Chair.)

The amendment (2) was adopted.

Senator Chadick offered the following amendment to the bill:

(3)

Amend S. B. No. 2 by adding the following words immediately following the word "district" in line 2 of page 20, the following words: "or by authority of any law, general or special, for the purpose of building bridges over which a part of the highway system of Texas now passes."

Question—Shall the amendment be adopted?

#### Recess

On motion of Senator Hill, the Senate, at 12:00 o'clock m., took recess to 2:30 o'clock p. m. today.

#### Afternoon Session

The Senate met at 2:30 o'clock p. m. and was called to order by President Pro Tempore Beck.

**Senate Resolution 11**

Senator Lovelady, by unanimous consent, offered the following resolution at this time:

Whereas, Mrs. H. G. Perry, sister of Mrs. Coke R. Stevenson and Mrs. Leo McNuse, of Stephenville, Texas, are in the gallery; and

Whereas, These ladies are outstanding citizens of Texas, and have contributed much to the civic betterment of the State; now, therefore, be it

Resolved by the Senate of Texas, That the said Mrs. H. G. Perry and Mrs. Leo McNuse be allowed the privilege of the Senate floor for this day.

The resolution was read, and on motion of Senator Lovelady and by unanimous consent, it was considered immediately.

The resolution was adopted.

**Senate Bill 2 on Passage to Engrossment**

The Senate resumed consideration of S. B. No. 2, the road bond servicing bill, on its passage to engrossment, with amendment (3) by Senator Chadick pending.

Question—Shall the amendment (3) be adopted?

Senator Shivers moved to table the amendment (3).

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

**Yeas—21**

Béck	Moffett
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Van Zandt
Isbell	Vick
Lemens	Weinert
Lovelady	Winfield
Martin	York
Metcalfe	

**Nays—7**

Aikin	Lanning
Chadick	Mauritz
Cotten	Sulak
Formby	

**Absent**

Kelley	Moore
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**Absent—Excused**

Spears

Senator Aikin offered the following amendment to the bill:

**(4)**

Amend paragraph (j) of Section No. 6 of S. B. No. 2 by striking out the words and figures "on and from September 1, 1941" appearing in the sixth and seventh lines on page 15 of the original bill, and adding the word "up" immediately before the word "to" appearing in the seventh line of said page 15.

(Senator York in the Chair.)

The amendment was adopted.

Senator Moffett offered the following amendment to the bill:

**(5)**

Amend S. B. No. 2 by striking out all below the enacting clause and substituting in lieu thereof the following:

Section 1. That Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as heretofore amended, be amended so as to read as follows:

"Section 1. It is expressly recognized and declared that all highways now or heretofore constituting a part of the System of State Highways and that all roads not constituting a part of such system, which have been constructed in whole or in part from the proceeds of bonds, warrants, or other evidence of indebtedness issued by counties of the State of Texas, or by defined road districts of the State of Texas, under the laws authorizing the same, have been and are and will continue to be beneficial to the State of Texas at large, and have contributed to the general welfare, settlement, and development of the entire State, and that, by reason of the foregoing, a heavy and undue burden was placed, and still rests, upon the counties and defined road district and their inhabitants, and both a legal and moral obligation rests upon the State to compensate and reimburse such counties and defined road districts which, as aforesaid, have performed functions resting upon the State, and have paid expenses which were and are properly state expenses, all for the use and benefit of the State, and to the extent provided herein that the State provide funds for the further construction of roads not designated as a part of the State Highway System.

"Having heretofore, by an Act of the Legislature (Chapter 13, Acts of

the Third Called Session of the Forty-second Legislature in 1932) taken over, acquired, and purchased the interest and equities of the various counties and defined road districts in and to the highways constituting a part of the system of then designated State highways, it is further declared to be the policy of the State to take over, acquire, purchase, and retain the interest and equities of the various counties and defined road districts in and to the highways, not previously taken over, acquired, and purchased and constituting on January 2, 1939, a part of the system of designated State highways, and to acquire and purchase the interest and equities of the various counties and defined road districts in and to the roads not constituting a part of the system of designated State highways as of January 2, 1939, and under the provisions of this Act to acquire such interest and equities in such roads hereafter to be constructed with money furnished by the State, and to reimburse said counties and districts therefor, and to provide for the acquisition, establishment, construction, extension and development of the System of designated State Highways of Texas, from some source of income other than the revenue derived from ad valorem taxes, it being expressly provided herein that the State is not assuming, and has not assumed, any obligation for the construction, extension, and development of any highways thus acquired and purchased which do not constitute a part of the system of designated State highways. And it is hereby determined that the further provisions of this Act constitute fair, just, and equitable compensation, repayment, and reimbursement to said counties and defined districts and for their aid and assistance to the State in the construction of State highways and for the construction of said roads which are ancillary to, but do not constitute a part of said system of State highways, and fully discharges the legally implied obligations of the State to compensate, repay, and reimburse the agencies of the State for expenses incurred at the instance and solicitation of the State, as well as for expenses incurred for the benefit of the State, and fully discharges the State's legally implied obligation to such counties and defined road districts to provide additional funds for the further con-

struction of roads not designated as a part of the State Highway System.

"Sec. 2. By the expression 'defined road districts' or 'road districts' or 'districts,' used in this Act, is meant any defined road district of the State or any Justice or Commissioner's Precinct acting as a road district or any road district located in one or more than one county.

"By the expression 'roads' or 'road' as used in this Act, is meant roads, roadbeds, bridges, and culverts.

"By the expression 'highways', 'State highways', and 'State designated highways', are meant roads which prior to January 2, 1939, had become a part of the system of designated State highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation and abandonment, and including roads concerning which the State Highway Commission had prior to January 2, 1939, recorded a conditional designation in the official minutes of said Highway Commission and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission and the Highway Commission theretofore officially entered of record its acceptance and designation of such road as a part of the State Highway System for maintenance.

"All roads which prior to January 2, 1939, had not become a part of the system of State designated highways, for convenience in this Act, are called 'lateral roads'.

"The term 'Board' as used in this Act, when the contrary is not clearly indicated, shall mean the 'Board of County and District Road Indebtedness'.

"The term 'fund' as used in this Act, when the contrary is not clearly indicated, shall mean the 'County and District Highway Fund'.

"The expression 'eligible obligations' as used in this Act shall mean obligations, the proceeds of which were actually expended on State designated highways.

"Sec. 3. All further improvements of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations

made by the Legislature out of the State Highway Fund. Surveys, plans, and specifications and estimates for all further construction and improvement of said system shall be made, prepared, and paid for by the State Highway Department. No further improvement of said system shall be made with the aid of or with any moneys furnished by the counties except the acquisition of rights-of-way which may be furnished by the counties, their subdivisions or defined road districts. But this shall in no wise affect the carrying out of any binding contracts now existing between the State Highway Department and the commissioners' court of any county, for such county, or for any defined road district. In the development of the system of State highways and the maintenance thereof, the State Highway Commission shall, from funds available to the State Highway Department provide:

"(a) For the efficient maintenance of all highways comprising the State system.

"(b) For the construction, in cooperation with the Federal Government to the extent of Federal Aid to the State, of highways of durable type of the greatest public necessity.

"(c) For the construction of highways, perfecting and extending a correlated system of State highways, independently from State funds.

"Sec. 4. All moneys now are hereafter deposited in the State Treasury to the credit of the 'State Highway Fund', including all Federal Aid money deposited to the credit of said fund under the terms of the Federal Aid Highway Act, shall be subject to appropriation by the Legislature for the specific purpose of the improvement of said system of State highways by the State Highway Department.

"Sec. 5. Each month the Comptroller of Public Accounts, after computing and ascertaining the maximum amount of refunds that may be due by the State on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the Second Called Session of the Forty-first Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the Forty-second Legislature, shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17,

Chapter 98, General Laws, Acts of the Regular Session of the Forty-second Legislature as amended; and, beginning with said taxes collected on and after October 1, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: One-fourth of such occupation or excise tax shall go to, and be placed to the credit of, the Available Free School Fund; one-fourth of the same shall go to, and be placed to the credit of, a fund to be known as the 'County and Road District Fund,' subject to the provisions and limitations of Section 3 of this Act; the remainder of such occupation or excise tax shall go to, and be placed to the credit of the State Highway Fund, for the construction and maintenance of the public roads of the State, and constituting and comprising the system of State Highways of Texas.

"Sec. 6 (a). All bonds, warrants, or other evidences of indebtedness heretofore issued by counties or defined road districts of this State, which mature on or after January 1, 1933, in so far as amounts of same were issued for and the proceeds have been actually expended in the construction of Roads, that constituted and comprised a part of the system of designated State highways on September 17, 1932, or which subsequent to such date and prior to January 2, 1939, have been designated a part of the system of State highways, or which subsequent to January 2, 1939, and prior to January 1, 1941 have been designated a part of the system of State highways, the expenditures on which were made prior to September 17, 1932, or any road that heretofore has constituted a part of said system and which has been or may be changed, relocated or abandoned, whether said indebtedness is now evidenced by the obligations originally issued or by refunding obligations or both, shall be eligible to participate in the distribution of the moneys coming into said County and District Highway Fund, subject to the provisions of this Act; provided that such indebtedness, the proceeds of which have been expended in the construction of roads, which have been designated as a part of the State Highway System after September 17, 1932, and prior to January 2, 1939,

shall participate in said County and Road District Highway Fund as of the date of the designation of said road as a part of the State system; provided further that any participation in said fund by any county or defined road district shall be less the amount of money it was required to accumulate in the sinking fund under the provisions of the statutes and order of the commissioners' court authorizing the issue of said eligible obligations, and the tax levy authorized at the time of issuance thereof for the time such obligations have run or may have run regardless of whether the full amount of said funds are, or may be, actually on hand and to the credit of the sinking funds of such county or defined road district. It is provided expressly in the connection that the term 'sinking funds' shall include only those funds required under the law for the retirement of principal and shall not include any excess or surplus which may have been accumulated by any county or defined road district above the legal requirements. The amount of such eligible indebtedness shall be determined as hereinafter provided. Provided further that no State funds created or provided for by the terms of this Act shall be expended in the payment of any interest maturing on the amount of sinking funds required by the terms of this Act to be accumulated by the county or defined road district at the date of eligibility of its obligations.

"In the event the State Highway Commission has, on a date prior to January 2, 1939, recorded a conditional designation and all conditions precedent to the official designation thereof have been met or performed in a manner satisfactory and acceptable to the Highway Commission, and the Highway Commission officially entered of record its acceptance and designation of such road as a part of the State Highway System for maintenance, prior to January 2, 1939, then the provisions of this Act shall apply as if the said roads had actually been designated prior to January 2, 1939.

"In addition to and regardless of the other provisions of this Act, all bonds voted by a county, road district, or defined road district, prior to January 2, 1939, in so far as amounts of same were or may be issued and the proceeds actually expended in the construction of roads which are

a part of the designated system of State highways, or may thereafter have been designated as part of such system, shall be eligible to participate in the distribution of the moneys coming into said County and Road District Highway Fund the same as provided for other bonds under this Act and as of the date of the designation of said road as a part of the State system; and where such bonds were voted prior to the designation of the road as a State highway, the county may issue and spend the proceeds on the construction of such road under contract and specifications to be approved by the State Highway Department, and when so expended the bonds shall be eligible to participate in the County and Road District Highway Fund the same as if the bonds were issued and expended prior to January 2, 1939.

"(b) The Board of County and District Road Indebtedness, created by Chapter 13, Acts of the Third Called Session of the Forty-second Legislature consisting of the State Highway Engineer, State Comptroller of Public Accounts, and State Treasurer, is hereby continued and charged with the duties of administering this Act. The State Comptroller of Public Accounts shall be the Secretary of said board and said board shall elect its own chairman from its membership. The board shall adopt its own rules consistent with this Act for the proceedings held hereunder, and shall have authority to call to its assistance in arriving at the amount of bonds, warrants, or other evidences of indebtedness eligible to participate in the County and Road District Highway Fund, any official or employee of this State, and shall avail itself of all data and information assembled in the administration of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, and said board is hereby authorized to call on any county judge or any county or state official or employee, and shall have full access to all the records, books, and public documents for the purpose of obtaining any information which it may deem necessary and pertinent to its inquiry in arriving at the amount of bonds, warrants, or other evidence of indebtedness eligible to participate in the County and Road District Highway Fund.

"(c) It shall be the duty of the Board of County and District Road Indebtedness, from the data and infor-

mation furnished by the County Judges of the State, and by the Chairman of the State Highway Commission, and by the State Comptroller of Public Accounts, and from such further investigation as said board may deem necessary to ascertain and determine the amount of indebtedness eligible under the provisions of this Section of this Act to participate in the moneys coming into said County and Road District Highway Fund. Whenever in the case of any particular issue of obligations the proceeds thereof shall have been expended partly on designated State highways, or highways heretofore constituting designated State highways, and partly on roads which never have been designated State highways, said board shall ascertain and determine the amount of said obligations, the proceeds of which were actually expended on State highways or on roads heretofore constituting State highways, and said obligations to said amount and extent shall be eligible for participation in the moneys coming into the County and Road District Highway Fund, and said ascertainment and determination shall be certified to the county judge by said board and all of the unmatured outstanding obligations of said issue shall ratably have the benefit of said participation in said moneys. The ascertainment and determination by the Board of County and District Road Indebtedness, after reasonable notice and hearing, of the amount of any county or defined road district obligations eligible under the provisions of this Act to participate in any moneys coming into the County and Road District Highway Fund, or as to the amount of any obligation, the proceeds of which were actually expended on State highways, or on roads heretofore constituting State highways, shall be final and conclusive and shall not be subject to review in any other tribunal. But said Board of County and District Road Indebtedness shall have the right at any time to correct any errors or mistakes it may have made.

"(d) The board shall make and keep a record of all county and defined road districts eligible obligations, issue by issue, and a book shall be prepared and kept in which shall be recorded all eligible issues, maturity dates of principal and interest, rates of interest, and places of payment for each county and each defined road district; each issue and the data

pertaining to same shall be listed separately. The board shall keep a record of all vouchers issued,

"(e) The State Treasurer shall keep a separate account for each county and defined road district of any monies received for the credit of said county or defined road district pursuant to the provisions hereof.

"(f) A list shall be compiled by the Board of County and District Road Indebtedness showing the amount ascertained and determined by it to be the eligible indebtedness of each county and defined road district, and a copy thereof shall be furnished to each county judge in this State.

"(g) From year to year, and not later than July 15th of each year, said board shall ascertain and determine the sum necessary to pay the interest, principal, and sinking fund requirements on all eligible obligations for the next succeeding calendar year and shall estimate the sum which shall be applicable to the same, and shall, not later than August 1st of each year give notice to the county judge of each county of the estimated amount available for application to said interest, principal, and sinking fund requirements. In the event the amount so estimated to be applied to the payment of eligible obligations for any county or defined road district is sufficient to meet all maturing interest, principal, and sinking fund requirements, the commissioners' court may dispense with the collection of the ad valorem levies for such calendar and/or fiscal year for such interest, principal, or sinking fund requirements. In the event the amount of payments so estimated to be applied is not sufficient to meet the maturing interest, principal, and sinking fund requirements, the county commissioners' court shall collect from taxes on the property in said respective counties and defined road districts, an amount of money equal to the difference between the amount of such requirements and the amount available for applications. Provided, however, that the commissioners' court of any county may exercise the authority now conferred by law, to refund such maturing obligations as in the discretion of the court would be to the best interest of said county, and in such event, such court may discontinue the levying of an ad valorem tax or such maturing obliga-



tions for such year or years. In this connection, it is declared to be the intent of the Legislature that all contractual duties and obligations which may exist between any county and/or defined road district and the owner or holder of the present outstanding indebtedness of any county and/or defined road district, shall not be in any manner disturbed or impaired and shall remain inviolate. Any tax heretofore provided to be levied in support of any present outstanding indebtedness affected by the provisions of this Act shall continue to be assessed, levied, and collected as originally provided; however, the collection of said tax may, by order of the commissioners' court, be lessened and reduced by the payments made, and to be made, thereon and in behalf of such indebtedness out of the County and Road District Highway Fund, as herein provided, and as succeeding Legislatures shall, by appropriation, make provisions therefor. The entire proceeds of all taxes collected on any eligible issue of bonds shall be remitted by the county treasurer of each county collecting the same, together with a statement of the amount collected, to the State Treasurer and shall be held by the State Treasurer as ex-officio Treasurer of said county or defined road district for the benefit of the county or defined road district remitting the same, and be disbursed to meet the interest, principal, and sinking fund requirements on the eligible obligations of said county or defined road district. In the event the amount of funds available to be applied to meet the maturing interest, principal, and sinking fund requirements of any calendar or fiscal year is not sufficient to satisfy such requirements, the monies available in the County and Road District Highway Fund, as estimated and determined by the board, shall be, for that calendar or fiscal year first applied to the payment and satisfaction of interest maturing on all eligible obligations during the particular calendar and/or fiscal year, and this payment is to be made ratably upon the interest on eligible obligations of the various counties or defined road districts; and if there is more of said monies available than necessary to pay all of said interest, then such balance over the required interest payment for such year shall be distributed ratably to each issue of eligible obligations on

the basis of the principal of eligible obligations and sinking fund requirements thereon maturing each year.

"(h) On September 1st of each year after the board has paid off and discharged all eligible obligations maturing during the preceding fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon, out of the County and District Highway Fund, any surplus remaining in said Fund over and above Three Million (\$3,000,000) Dollars which shall be carried forward as working capital or as a revolving fund, shall be set aside and credited to an account which shall be known as 'Lateral Road Account,' provided, however, all money on deposit with the State Treasurer in the County and Road District Highway Fund at the close of the day of August 31, 1939, shall be held, used and applied exclusively to the payment of principal, interest and sinking fund requirements on indebtedness constituting eligible obligations under Chapter 13, Acts, Third Called Session of the Forty-second Legislature and amendments thereto in effect at the time this Act becomes effective.

"As soon as practicable after the passage of this Act, and before the lateral road account is allocated to the counties, the board shall determine the amount each county and each defined road district has paid since January 1, 1933, under the provisions of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature; as amended, toward its debt service upon bonds which at the time of payment were eligible to participate in the County and Road District Highway Fund, and shall deduct from the amount paid by such county or defined road district any and all advancements made by the board to such county or defined road district in adjusting, refunding, or repaying the eligible obligations of such county or defined road district, and after making such deductions, the board shall credit the lateral road account of each county or defined road district with the net balance contributed by such county or road district toward the retirement of said eligible obligations and said funds so credited to any county or defined road district may be used or expended by the counties and defined road district for the purposes authorized in this Section.

"Not later than September 15th of each year the said board shall ascertain the exact amount of money which has been allocated to the said lateral road account for such fiscal year and which at that time is available. The board shall allocate to each county its proportionate part of the moneys in said lateral road account, which allocation shall be determined in the following manner:

"(1) One-tenth of the money in said account shall be allocated upon the basis of area, determined by the ratio of the area of the county to the total area of the State.

"(2) Two-tenths of the moneys in said account shall be allocated on the basis of population according to the last preceding Federal Census, determined by the ratio of the population of the county to the total population of the State.

"(3) Three-tenths of the moneys in said account shall be allocated upon the basis of the number of motor vehicles registered during the last preceding registration year, determined by the ratio of the number of such vehicles registered in the county to the total number registered in the State as shown by the official report of the State Highway Department.

"(4) Four-tenths of the moneys in said account shall be allocated to the counties on the basis of lateral road mileage, determined by the ratio of the mileage of lateral roads in the State as of January 1, 1939, as shown by the records of the State-Federal Highway Planning Survey and the State Highway Department.

"If the records of the Highway Department and the State-Federal Highway Planning Survey are such that, in the opinion of the Highway Commission or of any county, there is a reasonable doubt as to their accuracy, the Highway Commission may authorize an independent survey to be made of that county's lateral road mileage upon its own motion or on the application of said county. The expense of such survey shall be borne by the county.

"The moneys allocated to each county from the lateral road account shall be used by said county first for paying the principal, interest, and sinking fund requirements maturing during the fiscal year for which such money was allocated to such county on bonds, warrants, and other legal obligations issued prior to January 2,

1939, the proceeds of which were actually expended in acquiring rights of way for State designated highways, it being the intention of the Legislature to designate and set apart sufficient money to pay off and discharge said outstanding obligations incurred for right-of-way acquisition. Funds remaining in the lateral Road Fund of any county after the payment of said right-of-way obligations shall be used by the county for paying the maturing principal, interest, and sinking fund requirements, due by the county in that calendar year on bonds, warrants, or other evidences of indebtedness which were legally issued by such county or road districts prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads. Payment to be made ratably upon the principal and interest on the maturing road bond obligations of said county for such fiscal years. Any funds remaining in the Lateral Road Fund of any county after the payment of said principal, interest, and sinking fund requirements due or maturing in that calendar year on bonds or warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads shall be used by the county for the construction of farm to market roads, the particular farm to market road projects to be designated by the commissioners' court, and the actual construction to be done under the direction of the State Highway Department.

"After such allocation has been made to the several counties in the State, the board shall in writing notify the chairman of the commissioners' court of each county of the amount which has been credited to that county.

"Such money shall be applied pro rata to the payment of the debt service requirements of all issues of lateral road indebtedness of the county and all included defined road districts, in the proportion that the debt service requirements of all issues for that year. When any issue of obligations which will receive aid under this section is already listed with the Board of County and District Road Indebtedness, the board shall credit the amount applicable to said issue to the account of said issue in the State Treasury.

"When any road which shall have been constructed by any county wholly from the county lateral road account shall be designated by the State Highway Commission as a part of the system of designated State highways, the designation of such road by the State Highway Commission shall constitute a full and complete discharge of any and all obligations of the State, moral, legal, or implied, for the payment of such highway.

"In the event the commissioners' court elects to cooperate with the Highway Department in the building of, or in the construction of, farm-to-market roads, it shall by proper resolution entered upon its minutes, authorize the State Treasurer to pay such funds to be used, over to the State Highway Department for use on certain designated projects. Regardless of how the funds allocated to the counties from the lateral road account are used, the county judge of each county shall file with the board on or before October 1st, of each year, a verified report showing the manner in which the said funds have been expended, the nature and location of the roads constructed, and such other information as the board may from time to time require.

(i) The county commissioners' court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding any eligible debt of the county or of any defined road district when so requested by the Board of County and District Road Indebtedness; and such refunding obligations, when validly issued, shall be eligible obligations within the meaning of this Act, if said Board of County and District Road Indebtedness shall approve the maturities of said refunding obligations and the rate of interest borne by them. In any instance where, in the opinion of said board, the existing maturities of any issue of eligible obligations or any part thereof are such as to give the county or defined road district which issued them an inequitable or disproportionate participation in the moneys coming into the County and Road District Highway Fund in any particular period, said board, in its discretion, may require said issue or any part thereof to be refunded into refunding obligations bearing such rate of interest and having such maturities as may be satisfactory to the board. And if said

county or defined road district shall fail or refuse to effectuate such refunding within a reasonable time to be fixed by said board, said obligations so required to be refunded, and all other obligations of said county or defined road district shall cease to be eligible for participation in said County and Road District Highway Fund until the requirements of said board with respect to refunding shall be complied with. Provided, however, that the county commissioners' court of any county may exercise the authority now conferred by law to issue refunding obligations for the purpose of refunding that part of the eligible debt of the county or defined road district which said county or defined road district is required to pay on such bonds or warrants from the revenues procured by the levying of an annual ad valorem tax or by payment to said county from the proceeds derived from the lateral road fund account, it being the intention of the Legislature to empower the commissioners' courts of the various counties of Texas to refund that portion of the debt of all eligible obligations of any county or defined road district which the counties or defined road districts are required to pay, and such counties are hereby authorized in the refunding of such bonds to issue either term or serial bonds, which, in the sound discretion of such commissioners' court, result in the greatest benefit to the taxpayers and citizens of such county, in order that such counties or defined road districts may schedule outstanding road bond obligation maturities to conform to the benefits to be derived from participation in the lateral road fund account, provided, however, that such bonds, when so refunded shall cease to be eligible obligations within the meaning of this Act, and provided further that the maturity dates of no such refunding issues shall extend beyond September 1, 1959. The expense of such refunding shall be borne by the counties or defined road districts, and the interest rate of any such refunding issue shall not be in excess of the interest rate of such now outstanding bonds or warrants.

"(j) All moneys to be deposited to the credit of the County and Road District Highway Fund, from September 1, 1941, to August 31, 1943, both inclusive, are hereby appropriated to said respective counties and defined road districts and shall be received,

held, used, and applied by the State Treasurer, as ex-officio Treasurer of said respective counties and defined road districts, for the purpose and uses more specifically set forth in this Act, including the payment of principal, interest, and sinking fund requirements on all eligible obligations maturing on and from September 1, 1941, to and including August 31, 1943, and each year thereafter until all of such eligible obligations are fully paid; and moneys coming into the credit of the County and Road District Highway Fund with the State Treasurer and all moneys remaining therein from the previous year shall be received and held by him as ex officio treasurer of such counties and defined road district, and shall first be subject to the appropriation for the payment of interest, principal, and sinking funds maturing from time to time on said eligible obligations and then for the other uses specified and permitted in this Act.

"(k) As payment of principal and/or interest becomes due upon such eligible obligations, the State Comptroller of Public Accounts shall issue his warrant to the State Treasurer for the payment thereof, and the State Treasurer shall pay the same at his office in Austin, Texas, or by remitting to the bank or trust company or other place of payment designated in the particular obligation. Such warrants or voucher claims shall show on their face that the proceeds of the same are to be applied by the paying agent to the payment of certain specified obligations or interest therein described, by giving the name of the county or defined road district by which they were issued numbers, amounts, and dates of maturities of the obligations and interest to be paid with instruction to the State Treasurer, paying agent, bank, or trust company to return to the State Comptroller of Public Account such obligations and interest coupons when same are paid, and the State Comptroller of Public Accounts shall upon receipt of said obligations and coupons, credit same on his records and send them duly cancelled to the commissioners' court of the appropriate county, which shall cause to be duly entered a record of such cancellation. Provided, however, that in instances wherein the county commissioners' court of any county has elected to refund that part of its

eligible debt which the county is required to pay, then in that event the State Comptroller of Public Accounts shall inscribe on such bond or bonds a statement of the amount actually paid in cash, and the amount to be refunded or refundable and when such amount is actually refunded such bonds shall be duly cancelled and such refunding bonds when so issued shall cease to be eligible obligations within the meaning of this Act. In instances wherein counties or defined road districts therein shall have arranged with the board to pay principal or interest thereon, of outstanding lateral road indebtedness, the board, the State Comptroller of Public Accounts, and the State Treasurer shall follow, in so far as practicable, the procedure prescribed in this subsection (k) for the payment of the principal and interest of eligible obligations.

"(l) Expenses necessary to be incurred in the determination of the indebtedness of the counties and defined road districts of the State, and in the discharge of the duties required for the payment of such obligations shall be paid from the County and Road District Highway Fund by warrant approved by the Chief Accountant, the State Comptroller of Public Accounts and one other member of said board. The compensation of all employees of said board shall be fixed by the Legislature. All employees of said Board of County and District Road Indebtedness shall be bonded, the amount of such bond being set by the board.

"(m) All of the securities now on hand in which sinking funds collected for the benefit of outstanding eligible issues are invested, and all funds and securities hereafter acquired for the benefit of the entire outstanding balance of all eligible bond issues shall be forwarded within thirty (30) days from the effective date of this Act, and thereafter within thirty (30) days of the acquisition of such fund or securities, to the State Treasurer as ex-officio county treasurer of the various counties and defined road district. Provided that the cash now on hand in the sinking fund created for the benefit of outstanding eligible obligations may also be remitted, as above set forth, at the option of such county or defined road district. Any county, the commissioners' court of which fails or refuses to comply with the provisions of this Act in all things, including the levy, assessment and

collection of a tax at a rate sufficient to pay all sums due or to become due, which the State is unable to pay or to provide each year the proportionate amount of sinking fund required to redeem its outstanding bonds at their maturity shall not participate in any of the benefits of this Act so long as such county fails or refuses to comply with the provisions thereof. The Board of County and District Road Indebtedness shall have and possess full authority to invest all such sinking funds, including all future sinking funds acquired in any manner whatsoever, in any eligible obligations of the various political subdivisions of this State, which mature within the current biennium in which such securities are purchased, and where there is on hand a sufficient amount of moneys or securities to the credit of any one political subdivision to retire some of its outstanding obligations, whether then due or not, the Board of County and District Road Indebtedness may, if it deems it advisable, purchase and cancel said obligations of such particular political subdivision, irrespective of maturity dates. Provided further, that any county which has selected a depository according to law and in which county such depository has qualified by giving surety bonds or by the deposit of adequate securities of the kind provided by law, which in the opinion of the Board of County and District Road Indebtedness is ample to cover the county deposits, and which county has not defaulted in the payment of any installment of principal and/or interest on any county bonds for a period of five (5) years next preceding the date of the filing of its application for exemption, and in which county all sinking funds of all bond issues are in excess of the standard required by law and which county has levied for the current tax year adequate rates in support of outstanding bond issues and warrants as required by the Constitution and Statutes of said State, shall be exempt from the provisions of this subsection (m) of this Act, and which exemption shall be obtained by such county in the manner and under conditions prescribed by the said Board of County and District Road Indebtedness. Said board shall have the right to inspect the records of such county at any subsequent date to ascertain whether or not the facts warrant the continuation of the ex-

emption. If at any time, in the opinion of the board, counties that have been granted exemption under the provisions of this Act shall cease to comply with all the conditions under which the exemption has been granted, the board shall notify the county to return all securities in which the sinking funds of eligible road bond issues are invested and the residue in said sinking funds, and to begin immediately forwarding taxes levied and collected for the payment of interest and principal on all eligible road bond issues. Said counties whose exemption has been cancelled by said board shall be given a period of thirty (30) days in which to comply with the demands of the Board. Provided further, that such county so exempt shall furnish the board an annual statement of the condition of the sinking funds of the several eligible road bond issues, together with a financial statement of the county depository. The board shall have the right to withhold the payment of any maturity of any eligible road bond indebtedness where such county has failed or refused to comply with all the provisions of this Act.

"(n) The board shall keep adequate minutes of its proceedings and semi-annually, within thirty (30) days after February 28 and August 31, of each year, shall make itemized reports to each county with respect to the receipts, disbursement, and investment of the funds credited to such county. The commissioners' court of any county, and/or its accredited representatives, shall have the right to inspect the records of said board and of the State Treasurer, at any reasonable time for the purpose of making any investigation or audit of the account affecting its county.

"(o) The board shall, within ninety (90) days after the close of each fiscal year, make a complete account for the preceding year to the Governor of this State, showing in such reports its acts, investments, changes in investments, and sinking fund status of each county and each defined road district, and shall file copies of such report with the President of the Senate and with the Speaker of the House of Representatives.

"(p) In the event this Act is repealed, or shall be or become inoperative as to any county or defined road district, then it shall be the duty of the board to ascertain immediately the amount of monies and securities

remaining on hand with it or with the State Treasurer belonging to the several counties or defined road districts affected, and forthwith to return the same to the county treasurer of the county entitled thereto, accompanied by an itemized statement of the account of the county or defined road district.

"(q) All funds on hand belonging to, and hereafter credited to, the several counties and defined road districts of the State, shall be considered State funds, and as much shall be deposited at intervals in the depositories provided for by the State laws, and all interest earned on such funds and on the securities in which the sinking funds are invested shall belong to said counties or defined road districts, and shall be credited to them by the State Treasurer as earned and collected.

"(r) Upon notice from the board of the amount that such county or defined road district shall be required to pay toward any installment of interest or maturing principal, the county treasurer of such county shall, not later than twenty (20) days prior to the maturity date of such interest, principal, or sinking fund requirements, forward to the State Treasurer the amount fixed by the board as being necessary to supplement the amounts previously placed to the credit of any such county or defined road district by said board under the provisions of this Act.

"Sec. 7. All bonds heretofore issued by Navigation Districts of this State, which mature on or after January 1, 1933, and in so far as amounts of same were issued for and the proceeds thereof actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of designated State highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter 13, of the Acts of the Forty-second Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session, to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges; and in such cases the outstanding bonds of said navigation districts in an amount equal to the amount so expended by

such navigation districts shall be deemed under the same conditions as is provided by said Chapter 13, Acts of the Forty-second Legislature of Texas, Third Called Session, as amended by the Acts of the Forty-third Legislature of Texas, Regular Session, for the redemption of county and road district bonds.

"It is expressly provided that the Board of County and Road District Bond Indebtedness shall not be authorized to give the bonds herein referred to preference over other similar bonds eligible under said Bond Act; and it is further expressly provided that said board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge and the balance due on said amount of bonds used in the construction of said bridge at the effective date of this Act; and in no event shall said board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this Act.

"Sec. 8. No provision of this Act shall be construed to authorize the giving or lending of the credit of the State to any county or district or to pledge the credit of the State in any manner whatever for the payment of any of the outstanding road indebtedness herein referred to of the counties or districts of the State. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas directly or indirectly or contingently, for the payment of any such obligation or that the State of Texas should assume the payment of said obligations and this Act is not to be construed as obligating the State of Texas to the holders of any said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the moneys hereinabove provided for, nor shall any provision hereof constitute a contract on the part of the State to make money available to any county for the construction of additional lateral roads, but the pro-

visions hereof are intended solely to compensate, repay, and reimburse said counties and districts for the aid and assistance they have given to the State in furnishing, advancing, and contributing money for building and constructing State highways and lateral roads, to provide for the use and application by said counties and districts of the money which they may receive under the provisions of this Act, and under the circumstances prescribed in this Act to provide additional money to counties for the construction of additional lateral roads.

"Sec. 9. It shall be unlawful for any county judge or any county commissioner, while acting in his official capacity or otherwise, to use any money out of the lateral road account for any purpose except the purposes enumerated in this Act. If any county judge or any county commissioner shall knowingly expend or use, or vote for the use or agree to expend or use any sum of money accruing to any county in this State from the lateral road account, for any purpose not authorized by this Act or shall knowingly make any false statement concerning the expenditure of any such money, he shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the State Penitentiary for not less than two (2) nor more than five (5) years, and venue for prosecutions for any violation of this Act is in Travis County.

"Sec. 10. If succeeding Legislature shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, (a) then whenever the eligible obligations shall have been fully paid as herein provided, as to, or for any county or defined road district according to the provisions of this Act, then and in that event, the title and possession of all roads, roadbeds, bridges and culverts in such county or defined road district which are included in the system of designated State highways, shall automatically vest in fee simple in the State of Texas, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district accord-

ing to the provisions of this Act, then in that event, the title of all roads, roadbeds, bridges, and culverts, in such county or defined road district pertaining to the lateral roads, constructed with the proceeds of such indebtedness, shall automatically vest in the State of Texas, but the possession thereof shall remain in such county or defined road district, and in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; provided that when the right of way, or any part thereof, pertaining either to a State highway or a lateral road, has been abandoned because of the abandonment of such road for all public purposes, and such right-of-way, or any part thereof, was donated by the owner of the land for right-of-way purposes, then and in that event, the title to said right-of-way shall vest in said owner, his heirs or assigns; provided, however, that nothing in this Act shall prevent the State Highway Commission from changing or abandoning any State highway, and if the Commission shall change or abandon any State highway in any county, the commissioners' court of such county shall have the right to assume jurisdiction over such portion of such highway so abandoned by the State Highway Commission. Likewise, the title to additional lateral roads when constructed shall vest in the State of Texas. Provided, however, that this Act neither imposes the obligation, nor confers the right in the State of Texas, to maintain and lay out any roads except those constituting a part of the designated State Highway System as hereinabove in this Act defined. The obligation to maintain or lay out all other roads, including lateral roads and additional lateral roads as defined in this Act, shall remain undisturbed in the several commissioners' courts as agents of the State.

"Sec. 11. If any Section, subsection, paragraph, sentence, clause, or provision of this Act shall, for any reason, be held invalid, such invalidity shall not affect any other portion of this Act or the application of such Section, subsection, paragraph, sentence, clause, or provision to any other person or situation, but this Act shall be construed and enforced as if such invalid provisions had not been contained therein.

"Sec. 12. This Act shall be cumulative of all other valid laws on the

subject, but in the event of a conflict between any provision of this Act and any other Act, the provisions of this Act shall prevail."

Sec. 2. The fact that the present law governing the subject matter of this Act is inadequate creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in both Houses be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

MOFFETT,  
CHADICK,  
AIKIN,  
FORMBY,  
LANNING,  
SULAK,  
VAN ZANDT,  
HILL.

(President Pro Tempore Beck in the Chair.)

Senator Weinert offered the following amendment to the amendment (5):

Amend the Moffett substitute to S. B. No. 2 by inserting after the word "credited" where the same appears in the last line of page 10 of such Moffett substitute, the following language:

"as follows:

½ of such surplus shall be paid into the State Highway Fund.

½ of such surplus shall be paid"

Yeas and nays were demanded, and the amendment to the amendment (5) was rejected by the following vote:

#### Yeas—12

Aikin	Lovelady
Chadick	Martin
Cotten	Moffett
Hill	Smith
Isbell	Van Zandt
Lanning	Weinert

#### Nays—16

Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Stone
Kelley	Sulak
Lemens	Vick
Mauritz	Winfield
Metcalfe	York

#### Absent—Excused

Spears

#### Paired

Senator Formby (present), who would vote "yea," with Senator Hazlewood (absent), who would vote "nay."

Senator Van Zandt offered the following amendment to amendment (5):

Amend Moffett amendment, page 13, first paragraph, by striking out all after the word "shall" in said paragraph and inserting in lieu thereof the following: "be credited to the account of the Highway Department of Texas."

(Senator Lovelady in the Chair.)

Senator Shivers moved to table the amendment to the amendment (5).

(President Pro Tempore Beck in the Chair.)

#### Motions to Adjourn and Recess

Senator Hill moved that the Senate recess until 10:00 o'clock a. m. tomorrow.

Senator Cotten moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Question first recurring on the motion to adjourn, yeas and nays were demanded.

The motion was lost by the following vote:

#### Yeas—11

Chadick	Mauritz
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Lanning	York
Lovelady	

#### Nays—18

Aikin	Metcalfe
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Kelley	Vick
Lemens	Weinert
Martin	Winfield

#### Absent—Excused

Hazlewood	Spears
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Question next recurring on the motion to recess, yeas and nays were demanded.

The motion to recess was lost by the following vote:

#### Yeas—11

Chadick	Formby
Cotten	Hill



Lanning	Van Zandt
Lovelady	Vick
Moffett	York
Sulak	
Nays—17	
Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	
Absent	
Kelley	
Absent—Excused	
Hazlewood	Spears
After further debate, Senator Hill moved that the Senate recess until 10:15 o'clock a. m. tomorrow.	
Yeas and nays were demanded, and the motion was lost by the following vote:	
Yeas—12	
Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	York
Nays—17	
Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	
Absent—Excused	
Hazlewood	Spears
After further debate, Senator Moffett moved that the Senate adjourn until 9:30 o'clock a. m. tomorrow.	
Yeas and nays were demanded, and the motion was lost by the following vote:	
Yeas—12	
Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	York

Nays—17	
Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	
Absent—Excused	
Hazlewood	Spears
(Senator Winfield in the Chair.)	
After further debate, Senator Hill moved that the Senate recess until 9:30 o'clock a. m. tomorrow.	
Yeas and nays were demanded, and the motion was lost by the following vote:	
Yeas—12	
Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	York
Nays—17	
Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	
Absent—Excused	
Hazlewood	Spears
(Senator Smith in the Chair.)	
After further debate, Senator Moffett moved that the Senate recess until 8:00 o'clock p. m. today.	
Yeas and nays were demanded, and the motion was lost by the following vote:	
Yeas—11	
Aikin	Lovelady
Chadick	Moffett
Cotten	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	
Nays—18	
Beck	Fain
Brownlee	Formby

Graves	Ramsey
Isbell	Shivers
Lemens	Smith
Martin	Stone
Mauritz	Weinert
Metcalf	Winfield
Moore	York

## Absent—Excused

Hazlewood	Spears
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After further debate, Senator Hill moved that the Senate recess until 7:30 o'clock p. m. today.

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—9

Chadick	Lovelady
Cotten	Moffett
Hill	Van Zandt
Kelley	Vick
Lanning	

## Nays—20

Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Formby	Smith
Graves	Stone
Isbell	Sulak
Lemens	Weinert
Martin	Winfield
Mauritz	York

## Absent—Excused

Hazlewood	Spears
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After further debate, Senator Hill moved that the Senate adjourn until 10:05 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—12

Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	York

## Nays—17

Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	

## Absent—Excused

Hazlewood	Spears
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(President Pro Tempore Beck in the Chair.)

After further debate, Senator Hill moved that the Senate adjourn until 10:00 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

## Yeas—12

Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Kelley	Vick
Lanning	York

## Nays—17

Aikin	Metcalf
Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Isbell	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	

## Absent—Excused

Hazlewood	Spears
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Question recurring on the motion of Senator Shivers to table the amendment to amendment (5), yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—16

Fain	Moore
Formby	Ramsey
Graves	Shivers
Kelley	Stone
Lemens	Vick
Martin	Weinert
Mauritz	Winfield
Metcalf	York

## Nays—13

Aikin	Lanning
Beck	Lovelady
Brownlee	Moffett
Chadick	Smith
Cotten	Sulak
Hill	Van Zandt
Isbell	

## Absent—Excused

Hazlewood	Spears
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Senator Shivers moved to table amendment (5) by Senator Moffett.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—18

Beck	Metcalf
Brownlee	Moore
Fain	Ramsey
Graves	Shivers
Isbell	Smith
Kelley	Stone
Lemens	Vick
Martin	Winfield
Mauritz	York

Nays—10

Aikin	Lovelady
Chadick	Moffett
Cotten	Sulak
Hill	Van Zandt
Lanning	Weinert

Absent—Excused

Spears

Paired

Senator Formby (present), who would vote "nay," with Senator Hazlewood (absent), who would vote "yea."

Senator Aikin offered the following amendment to the bill:

(6)

Amend S. B. No. 2, page 8, by adding the following after the first paragraph:

"Any surplus remaining shall be used by the State Highway Department for the construction and maintenance of a system of Farm-to-Market roads."

AIKIN,  
FORMBY,  
HILL.

Senator Shivers offered the following substitute for the amendment (6):

Amend S. B. No. 2 by striking out Section (h) on page 13 of the mimeographed bill and inserting in lieu thereof the following:

"(h) At the end of each fiscal year after the Board of County and District Road Indebtedness shall have made provision for the payment in full of all eligible obligations maturing during the then current fiscal year, together with the interest on such obligations and the sinking fund requirements accruing thereon, out of the County and Road District Highway Fund, any excess remaining in

said fund over and above Three Million (\$3,000,000) Dollars, or so much thereof as the board may consider necessary as working capital or as a revolving fund, shall be transferred by the State Treasurer as follows:

"One (1) The first Two Million (\$2,000,000) Dollars accruing annually after the discharge of the above mentioned shall be placed in a separate account within the Highway Fund to be known as the 'Farm-to-Market' road account to be expended by the State Highway Department as hereinafter provided in the construction of a system of Farm-to-Market roads.

"Two (2) When the State Treasurer in any one fiscal year shall have deposited Two Million (\$2,000,000) Dollars to the credit of the Farm-to-Market road account as provided in paragraph one (1) above, then all monies accruing in excess of the said Two Million (\$2,000,000) Dollars shall be divided in two equal parts, one part to be deposited to the credit of the Farm-to-Market road account to be expended in the construction of Farm-to-Market roads as hereinafter provided and the other part shall be deposited to the credit of the State Highway Fund for the construction of State designated highways.

"The State Highway Commission is hereby vested with the authority to designate and construct Farm-to-Market roads, it being expressly provided that no road shall be designated and constructed as a Farm-to-Market road with the Farm-to-Market road funds provided in paragraphs One (1) and Two (2) above which was being maintained as a State highway on September 1, 1941. It is further provided that the Farm-to-Market roads constructed under the provisions of this subsection (h) shall be known as the 'Farm-to-Market Road System of Texas' and shall be distinguished from State highways and county lateral roads by appropriate markings. It is further provided that all roads on the Farm-to-Market road system shall at all times after their construction be maintained by the State Highway Department out of the funds provided for Farm-to-Market roads under paragraphs One (1) and Two (2) above.

"It is further provided that the funds transferred to the State Highway Fund under paragraph Two (2) above shall be used by the State Highway Commission in the construc-

tion and maintenance of State designated highways as provided in Section 3 of this Act.

"The fund provided in paragraphs One (1) and Two (2) of this subsection are hereby appropriated to the State Highway Department for the purposes above set out."

And further amend S. B. No. 2 by striking out lines One (1) to Eleven (11) inclusive on page 8 of the mimeographed bill.

SHIVERS,  
MOORE,  
METCALFE,  
FAIN.

Yeas and nays were demanded, and the substitute for amendment (6) was adopted by the following vote:

Yeas—17

Beck	Moore
Brownlee	Ramsey
Fain	Shivers
Graves	Smith
Kelley	Stone
Lemens	Weinert
Martin	Winfield
Mauritz	York
Metcalf	

Nays—12

Aikin	Lanning
Chadick	Lovelady
Cotten	Moffett
Formby	Sulak
Hill	Van Zandt
Isbell	Vick

Absent—Excused

Hazlewood      Spears

Question then recurring on the amendment as substituted, yeas and nays were demanded.

The amendment as substituted was adopted by the following vote:

Yeas—24

Aikin	Mauritz
Beck	Metcalf
Chadick	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Isbell	Stone
Kelley	Sulak
Lanning	Van Zandt
Lemens	Weinert
Lovelady	Winfield
Martin	York

Nays—4

Brownlee	Moffett
Cotten	Vick

Present—Not Voting

Hill

Absent—Excused

Hazlewood      Spears

Senator Kelley offered the following amendment to the bill:

(7)

Amend S. B. No. 2, by inserting a new paragraph, properly numbered, as follows:

"Regardless of the other provisions of this Act, all bonds voted by a county or road district prior to January 1, 1941, insofar as amounts of same have been or may be issued and the proceeds actually expended in the construction of roads which are of military importance on the primary routes important to national defense as certified by the Secretary of War or the Secretary of the Navy to the United States Public Roads Administration prior to January 1, 1941, shall be eligible to participate in the distribution of moneys coming into the County and Road District Highway Fund after due provision has been made for servicing the other bonds, warrants and other evidences of indebtedness made eligible to participate in said fund by the provisions of this Act, and providing further that the amount which shall be allocated to service such bonds made eligible by the provisions of this paragraph shall not exceed Three Hundred Fifty Thousand (\$350,000.00) Dollars in any fiscal year; and such bonds shall become eligible to participate in the distribution of moneys from said Fund as of the date of the award of the contract for such road construction, provided that the county or road district shall expend the proceeds of such bonds on the construction of such military roads under plans and specifications and contract provisions to be approved by the State Highway Department."

On motion of Senator Lovelady, the amendment was tabled.

Senator Shivers offered the following amendment to the bill:

(8)

Amend the caption to conform to the changes made in the body of the bill.

The amendment was adopted.

The bill (as amended) was passed to engrossment.

**Senate Bill 2 on Third Reading**

Senator Shivers moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 2 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Isbell	Sulak
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Nays—2

Hill Van Zandt

Absent—Excused

Spears

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Isbell	Sulak
Kelley	Vick
Lanning	Weinert
Lemens	Winfield
Lovelady	York

Nays—2

Hill Van Zandt

Absent—Excused

Spears

**Report of Committee on Nominations of the Governor**

Senator Martin submitted the following report:

Committee Room,  
Austin, Texas,  
September 15, 1941.

Honorable E. Harold Beck, President  
Pro Tempore of the Senate.

Sir: We, your Committee on Nominations of the Governor, to whom has been referred the nomination of Honorable J. L. Goggans of Dallas, Texas, to be a Commissioner to the National Conference on Uniform State Laws, have received a communication from the said J. L. Goggans, the nominee, advising that he would not be able to serve in the capacity indicated and requesting that his appointment should not be confirmed but should be withdrawn.

Accordingly, and upon the request of the Honorable J. L. Goggans, the appointee, your committee is making no recommendation with reference to the confirmation of his appointment.

Respectfully submitted,

MARTIN, Chairman.

**Adjournment**

Senator Shivers moved that the Senate adjourn until 10:00 o'clock a. m. Monday, September 15, 1941.

Senator Van Zandt moved that the Senate recess until 10:00 o'clock a. m. tomorrow.

Question first recurring on the motion to adjourn, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—21

Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Fain	Moore
Formby	Ramsey
Hill	Shivers
Isbell	Smith
Kelley	Weinert
Lemens	Winfield
Lovelady	York
Martin	

Nays—8

Aikin	Stone
Cotten	Sulak
Graves	Van Zandt
Lanning	Vick

Absent—Excused

Hazlewood Spears

The Senate, accordingly, at 7:40 o'clock p. m., adjourned until 10:00 o'clock a. m. Monday, September 15, 1941.

**In Memory of**  
**Mrs. Sara Delano Roosevelt**

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Senator Smith offered the following resolution:

(Senate Resolution 10)

Whereas, On the 7th day of September, 1941, Sara Delano Roosevelt, the gracious mother of the President of the United States, departed from the paths of mortality to the great highway of eternity; and

Whereas, Sara Delano Roosevelt was one of the most outstanding women of this century, embodying all the fine and ennobling qualities of American womanhood to a superlative degree; and

Whereas, Her contribution to the life of her generation is one of the richest possessions of our time, both in the majesty of her character and the radiance of her culture, thus indebted forever the people of America to this marvelous mother of one of the world's most outstanding men—the President of the United States; and

Whereas, As the mother of Franklin Delano Roosevelt, she gave to her country and to mankind one of the greatest humanitarian executives who ever presided over the destiny of this great Republic; now, therefore, be it

Resolved by the Senate of Texas, That we express to President Franklin D. Roosevelt our deepest sorrow in the loss of his wonderful mother, and extend to him the personal sympathy of each member of this Senate in this hour of his grief; and, be it further

Resolved that this resolution be printed in the Senate Journal and that a copy of the same be furnished the President of the United States.

SMITH.

Signed—Aikin, Beck, Brownlee, Chadick, Cotten, Fain, Formby, Graves, Hazlewood, Hill, Isbell, Kelley, Lanning, Lemens, Lovelady, Martin, Mauritz, Metcalfe, Moffett, Moore, Ramsey, Shivers, Smith, Spears, Stone, Sulak, Van Zandt, Vick, Weinert, Winfield and York.

The resolution was read, and by unanimous consent, the names of all members of the Senate were added to it as signers thereof.

The resolution was adopted unanimously by a rising vote.